

**CHIROPRACTIC EXAMINING BOARD
MADISON, WI
MINUTES
May 13, 2004**

PRESENT: Steven Conway, Char Glocke (by phone), Susan Feith,
Wendy Henrichs, James Rosemeyer, James Weber

EXCUSED: None

STAFF PRESENT: Kimberly Nania; Jacquelynn Rothstein; Legal Counsel,
Gina York, Bureau Assistant, and Division of Enforcement
and other staff

GUESTS: Bill Boissannault, WPTA; Nicole Boryczka, WPTA;
Jeremy Levin, WI Medical Society; Steven Maerz, WCA;
Wendy Kammerud, WCA

CALL TO ORDER

James Rosemeyer, Chair, called the meeting to order at 8:08 a.m. A quorum of 6 members was present.

AGENDA

Additions to the Agenda:

- Open Session: Item Meeting with Representatives/Information from NBCE – Add just after Administrative Report
- Open Session: Both Items (F.) and Discussion of CE Issues Identified in Senator Roessler's Letter of March 22, 2004. – Move to just before Item C.
- Open Session: Open Session: Presentation of Stipulations Received After Mailing of Agenda – Add Name: David Sommerfeld
- Closed Session: Monitoring Received After Mailing of Agenda – Add Names: John Aderholdt and Troy Bruesewitz
- Closed Session: Applications Received After Mailing of Agenda – Add Name: Peter Schmidt
- Closed Session: Stipulations Received After Mailing of Agenda – Add Name: David Sommerfeld

MOTION: James Weber moved, seconded by Wendy Henrichs, to approve the agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES OF MARCH 11, 2004

Amendments to the Minutes:

- Page 1: Delete the “d” in Hendrichs, should be Henrichs
- Page 3: In the fourth line change “he” to “she”
- Page 5: Under Correspondence for NBCE Regarding Board members to attend May 2004 Part IV Exam Administration- Remove motion format wording.
- Page 6: Move Reconvene Into Open Session to After Convene to Closed Session

MOTION: James Weber moved, seconded by Wendy Henrichs, to approve the March 11, 2004 minutes as amended. Motion carried unanimously.

APPROVAL OF MINUTES OF APRIL 8, 2004 TELECONFERENCE

Amendments to the Minutes:

- Page 1: Delete the “d” in Hendrichs, should be Henrichs

MOTION: Wendy Henrichs moved, seconded by James Weber, to approve the April 8, 2004 teleconference minutes as amended. Motion carried unanimously.

ADMINISTRATIVE REPORT

Kimberly Nania, Bureau Director of Health Service Professions, shared with the Board that there has been some changes in personnel. Mary Schlaefer has left the Department and a new Deputy Secretary has been appointed her name is Sandra Rowe. The Department is still working on the building renovations and has a target date for completion near the end of the year.

MEETING WITH REPRESENTATIVES/INFORMATION FROM NBCE

Barbara Showers, Office of Education and Examinations, introduced Dr. Christenson and Dr. Townsend representatives from NBCE. Also present as guests were two representatives from the Wisconsin Chiropractic Association (WCA) Steven Maerz and Nicole Boryczka. Kimberly Nania, Bureau Director of Health Service Professions, encouraged both WCA representatives to take the opportunity to ask questions of NBCE regarding the exam process and its validity.

Both NBCE representatives provided a thorough and extensive review of the examination process. They answered questions and provided specific, detailed information regarding test development, psychometric testing, validity and reliability surrounding the exam. A question arose of whether someone could fail one portion of the exam and still pass. Portions of the test are integrated throughout the exam and an individual must have an overall score. NBCE's role is to provide equal protection and a fair process to all. The exam that NBCE provides meets the minimum requirements to practice.

The Chair asked the two WCA individuals if they were representing WCA at today's meeting. They stated they were not chiropractors and that Mr. Russ Leonard, WCA, asked them to come and observe the meeting today. Kimberly Nania and Chair Rosemeyer did provide several

opportunities for input and/or questions from them if they wished during the meeting and they indicated that they were here as observers only.

PRESENTATION OF PROPOSED STIPULATIONS

There were two stipulations to be presented before the Board, Randall J. Hammett, DC and David Sommerfeld, DC. These will be deliberated on in closed session at today's meeting.

FYI LETTER TO SENATOR ROESSLER REGARDING CR 03-082

The letter from Senator Roessler regarding Clearinghouse Rule 03-082. A meeting took place with Senator Roessler at her request attending were James Rosemeyer, Chiropractic Examining Board Chair; Susan Feith, Chiropractic Examining Board member; Kimberly Nania, Bureau Director of Health Service Professions; Barbara Showers, Office of Education and Examination; and Jacquelyn Rothstein, Legal Counsel for the Chiropractic Examining Board. The outcome from this meeting was to revisit rule CR 03-082 and consider eliminating the continue education and to not make the cut score part to this rule.

At today's meeting the Board took the following action.

MOTION: Wendy Henrichs moved, seconded by Susan Feith, to revise Section 27, of the proposed rule CR 03-082, be amended so that the phrase or another chiropractic organization approved by the Board be removed and that particular section remain unchanged and the Board forward that modification to Senator Roessler. Roll Call Vote: Char Glocke-Yes; Susan Feith – Yes; Wendy Henrichs-Yes; James Weber-Yes; James Rosemeyer-Yes. Steven Conway -Abstained. Results were Affirmed-5, Opposed-None, Abstained - 1. Motion carried.

DISCUSSION OF CE ISSUES IDENTIFIED IN SENATOR ROESSLER'S LETTER OF MARCH 22, 2004

This was addressed in the previous topic. Please see the information and motion under heading titled "FYI Letter to Senator Roessler regarding CR 03-082".

REPORTS ON PENDING COURT CASES, DISCIPLINARY CASES AND ADMINISTRATIVE RULES AND PRESS RELEASES

Jacquelyn Rothstein, Legal Counsel, reviewed the report regarding any other pending court cases, disciplinary cases, administrative rules and press releases with the Board at today's meeting.

STATUS OF LEGISLATION WITH EMERGENCY RULE

Noted.

STATUS OF SCOPE STATEMENT PERTAINING TO QUALIFICATIONS FOR INSTRUCTORS

On April 8, 2004 the scope statement was approved and on April 11, 2004 the drafting of language could begin. Jacquelynn Rothstein will work with Susan Feith while developing the rule language and to seek input from Wendy Henrichs, if needed regarding this topic. Steven Conway did not participate in today's discussion.

UPDATE ON ADMINISTRATIVE RULE REVISION FOR PHYSICAL THERAPY

Jacquelynn Rothstein, Legal Counsel, will follow up with Chair Rosemeyer regarding the status of this rule.

FYI CREDENTIALING CHANGE TO BLUE LICENSE

Informational only.

WEB-BASED CONTINUING EDUCATION OPTIONS

Jacquelynn Rothstein, Legal Counsel, provided samples of other professions rules regarding web-based training. The Board reviewed the material and requested Jacquelynn Rothstein to draft two letters. One letter to WCA informing them that the Board is thinking of developing a rule regarding web-based training and the second letter to schools and providers regarding what web-based courses they are offering. Steven Conway did not participate in today's discussion.

MEMO REGARDING THE USE OF COLD LASER THERAPY

The Board reviewed the memo dated April 15, 2004 by Jacquelynn Rothstein, Legal Counsel, to poll colleges of whether they are offering courses regarding cold laser therapy, how it is taught, the number of hours, requirements to teach the course and what scientific evaluation exists for its use.

GRANTING DIPLOMATE STATUS

The Board postpone this topic to the next agenda and requested more information regarding the granting of diplomate status. Steven Conway will gather additional information and provide it to the Board at the next meeting.

POWER POLL SURVEY RESULTS REGARDING PARA PHYSIOLOGICAL SPACE

Noted.

CORRESPONDENCE FROM PALMER COLLEGE REGARDING RESIGNATIONS AND APPOINTMENTS

Noted.

CORRESPONDENCE FROM WESTERN STATES CHIROPRACTIC COLLEGE REGARDING NEW COURSES

The Board requested this topic be postponed to the next meeting.

PRECEPTOR APPROVAL

The Board reviewed the preceptors presented at today's meeting. They were Terry Pace, Joshua Cleveland, Gina R. Cleveland, Lance W. Kirchman, Dan P. Killian, Jerry A. Twit, Thomas R. Clinton, and Laura L. Detert. The Board took the following action.

MOTION: James Weber moved, seconded by Wendy Henrichs, to approve all preceptors presented, except Joshua Cleveland, before the Board on 05/13/04. Reason for Denial: Joshua Cleveland was submitted for approval at the last meeting as well and Mr. Cleveland is not eligible to be a preceptor (licensed July 22, 1999). Julie Reimann will notify him that he has been denied and does not qualify at this time. Motion carried unanimously.

PRECEPTOR APPROVAL FOR REQUESTS RECEIVED AFTER THE PRINTING OF THE AGENDA

None.

CORRESPONDENCE AND PHONE INQUIRIES BY LEGAL COUNSEL

Jacquelynn Rothstein, Legal Counsel, there were two practice questions to present to the Board. One was regarding CPT codes and Steven Conway will obtain an opinion by a consultant. The second question after review and discussion appeared to be related to fee splitting. Attorney Rothstein will respond on behalf of the board regarding these questions as indicated by the Board at today's meeting.

CONSULT WITH LEGAL COUNSEL

The Board consulted with Jacquelynn Rothstein, Legal Counsel as needed through out the meeting.

INFORMATIONAL ITEMS

Noted.

VISITOR COMMENTS

None.

CLOSED SESSION

MOTION: Steven Conway moved, seconded by Wendy Henrichs, to adjourn to closed session pursuant to Wisconsin state statutes 19.85(1)(a)(b)(f) and (g) to consult with Legal Counsel regarding the Suit by WCA, deliberate on proposed stipulations, deliberate on proposed administrative warnings, deliberate on monitoring issues, application review, monitoring report and DOE case status reports. Motion carried by roll call vote: Steven Conway-yes; Susan Feith-yes; Char Glocke-yes; Wendy Hendrichs-yes; James Rosemeyer-yes; and James Weber-yes.

Open Session recessed at 10:28 a.m.

RECONVENE INTO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

MOTION: James Weber moved, seconded by Wendy Hendrichs, to reconvene into Open Session at 12:38 p.m. Motion carried unanimously.

VOTE ON ITEMS CONSIDERED OR DELIBERATED ON IN CLOSED SESSION

WCA LAWSUIT UPDATE AND FOLLOW UP WITH LEGAL COUNSEL

In closed session, the Board discussed the latest settlement proposal submitted by the WCA. The Board took the following action.

MOTION: Wendy Henrichs moved, seconded by James Weber, to accept the WCA settlement proposal. Roll Call Vote: Char Glocke-No; Susan Feith – No; Wendy Henrichs-Yes; Steven Conway-No; James Weber-Yes; James Rosemeyer-No. Results were Affirmed-2, Opposed-4. Motion failed.

MONITORING

REVIEW OF DOCUMENTS RICHARD HORAITIS, D.C.

MOTION: Wendy Henrichs moved, and seconded by Steven Conway, that monitoring will notify Dr. Horaitis that he must have a counter sign displayed in a prominent area and the letter font size must be a minimum of 72 so it can be easily identified. Motion carried unanimously.

MICHAEL LA BLANC, D.C.

MOTION: Wendy Henrichs moved, and seconded by Steven Conway, to grant Michael La Blanc's request for an extension to August 31, 2004 for completion of all 12 credits, to approve the 6 credits submitted, and for the Chair to approve the final 6 credits. Motion carried unanimously.

JOHN ADERHOLDT, D.C.

MOTION: James Weber moved, and seconded by Susan Feith, to grant a three-month stay to John Aderholdt, D.C. Motion carried unanimously.

TODD BRUESEWITZ, D.C.

MOTION: Wendy Henrichs moved, and seconded by James Weber, to grant full licensure to Todd Bruesewitz, D.C. Motion carried unanimously.

APPLICATION REVIEW

COLLEEN M. HATHAWAY, D.C.

MOTION: James Weber moved, and seconded by Wendy Henrichs, to approve the application by endorsement for Colleen M. Hathaway, D.C. Motion carried unanimously.

SCOTT A. MASON, D.C.

MOTION: James Weber moved, and seconded by Susan Feith, to deny the application for reinstatement for Scott A. Mason, D.C. Reason for denial: Mr. Mason is still denied in Arizona. Motion carried unanimously.

RANDALL W. NODORFT, D.C.

MOTION: James Weber moved, and seconded by Wendy Henrichs, to request Julie Reimann to send a letter to Randall W. Nodorft, D.C. requesting more information regarding his other arrests and to request a report from his probation agent on how he has adjusted to his supervision. Motion carried unanimously.

PETER SCHMIDT, D.C.

MOTION: Steven Conway moved, and seconded by Wendy Henrichs, to grant a license to Peter Schmidt, D.C. Motion carried unanimously.

STIPULATIONS

RANDALL J. HAMMETT, D.C.

MOTION: Susan Feith moved, and seconded by James Weber, to adopt the Findings of Fact, Conclusions of Law, Order and Stipulation in the matter of Randall J. Hammett, D.C. Motion carried unanimously.

DAVID SOMMERFELD, D.C.

MOTION: Susan Feith moved, and seconded by James Weber, to adopt the Findings of Fact, Conclusions of Law, Order and Stipulation in the matter of David Sommerfeld, D.C. James Weber did not participate in the deliberation and abstained from voting. Motion carried.

DIVISION OF ENFORCEMENT – CASE STATUS REPORT

MOTION: Wendy Hendrichs moved, seconded by Steven Conway, to close case **03 CHI 042** for insufficient evidence. Motion carried unanimously.

MOTION: Wendy Hendrichs moved, seconded by Steven Conway, to close case **03 CHI 080** for no violation. Motion carried unanimously.

MOTION: Wendy Hendrichs moved, seconded by Susan Feith, to close case **03 CHI 066** for insufficient evidence. Motion carried unanimously.

MOTION: Steven Conway moved, seconded by Wendy Henrichs, to close case **03 CHI 036** for P2. Motion carried unanimously.

MOTION: James Weber moved, seconded by Susan Feith, to close case **02 CHI 035** for compliance gained. Motion carried unanimously.

MOTION: James Weber moved, seconded by Wendy Henrichs, to close case **99 CHI 060** for insufficient evidence. Steven Conway did not participate in the deliberation and abstained from voting. Motion carried.

OTHER BOARD BUSINESS

None.

ADJOURNMENT

MOTION: Wendy Henrichs moved, seconded by Susan Feith, to adjourn the meeting at 2:00 p.m. Motion carried unanimously.

Next Meeting:

July 8, 2004